

7/19/2022

Re: Case Number: 22-10964 (MG) Southern District of New York

Dear Honorable Judge Glenn,

This letter is to request the Custodial accounts of Celsius be granted immediate and unrestricted access to their funds.

THERE IS A CLEAR DIFFERENTIATION BETWEEN CUSTODY AND EARN ACCOUNTS: Celsius has made it abundantly clear to potential users that there is a clear differentiation between Earn wallets and Custody wallets. As it is well-defined in the global financial markets, the backbone of any investment is the **risk vs. the reward**. In this case, the purpose of the Earn wallet was to put money at risk in order to generate some return (yield). However, the purpose of the custody accounts as stated by Celsius is secure storage of funds WITHOUT putting any funds at risk. Celsius had even admitted in the hearing on Monday 07/18/22 that these funds were secure therefore acknowledging **the assets in the custody account were never at risk, and are 100% backed, present and “safe”**.

It would be illogical and inconsistent for Custody wallet assets to share the same risk as the Earn wallet without sharing any of the reward. Furthermore, there is no reason to co-mingle Custody and Earn Accounts.

Per Celsius Terms of Service:

“Title to any of your Eligible Digital Assets in a Custody Wallet shall at all times remain with you and not transfer to Celsius. Celsius will not transfer, sell, loan or otherwise rehypothecate Eligible Digital Assets held in a Custody Wallet unless specifically instructed by you, except as required by valid court order, competent regulatory agency, government agency or applicable law.”

In this case, the funds are not lost, and as mentioned earlier, there is no reason to hold the assets hostage (especially assets that do not belong to Celsius).

Every day that these Custody assets are not released, they are only more susceptible to **market risk** in a volatile market. The situation could unfortunately become much worse for everyone during a downtrend. Also, if our assets held in Custodial accounts continue to be frozen throughout this bankruptcy process, you will have ~58,000 Celsius customers without access to their funds for months to years. This is an unnecessary strain on people who may need immediate access to money to cover bills, etc.

There are also **safety concerns**. It is well known that securing breaches are possible and Celsius has been hacked before. Granting immediate access to our Custodial Accounts will allow for the transfer of our funds to a safer “custodian” and decrease the risk of funds being subject to hacks and other security breaches.

Due to the reasons listed above, an **immediate declaratory judgement** removing the halt on withdrawals of the Custody wallets is requested. Although crypto is a new concept in financial markets, the fundamentals are not. Depositors and preferred shareholders **are not treated the same in risk because they do not share the reward**.

A delayed ruling, or eventual decision by a committee made up of almost exclusively Earn Account holders of Celsius (with a clear bias), will surely adversely affect Custodial Account holders (which represent a small percentage of overall funds). What is more, rightfully allowing access to Custodial funds will not significantly impact the Earn account holders.

I, indeed, do have funds in BOTH Custody and Earn, and understand that my funds in the Earn wallet are subject to different risks. Like all others; I will wait patiently for the fate of the Earn monies. The Custody accounts are clearly distinct and should be treated as such.

I thank you for your time and prompt attention, and hope for a prompt resolution of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Emil Kohan', with a stylized, flowing script.

Dr. Emil Kohan
emilkohan@gmail.com